

PTO/SB/30 (09-04)

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**Request
for
Continued Examination (RCE)
Transmittal**Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	09/762,302
Filing Date	February 8, 2001
First Named Inventor	Rango DIETRICH et al.
Art Unit	1615
Examiner Name	Humera N. SHEIKH
Attorney Docket Number	P66333US0

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ii. ☐ Other _____
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- iii. ☐ Information Disclosure Statement (IDS)
- ii. ☐ Affidavit(s)/ Declaration(s)
- iv. ☐ Other _____

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other _____

3. Fees

- The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
- The Director is hereby authorized to charge the following fees, or credit any overpayments, to
- a. ☒ Deposit Account No. 06-1358 I have enclosed a duplicate copy of this sheet.
- i. ☐ RCE fee required under 37 CFR 1.17(e) 02/17/2005 SZEWDIE1 00000166 09762302
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17) 01 FC:1801 790.00 ⁰⁰
- iii. ☒ Other any deficiencies in fees not included in credit card Form PTO-2038
- b. ☐ Check in the amount of \$ _____ enclosed
- c. ☒ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Signature	<i>Irvin M. Aisenberg</i>	Date	February 16, 2005
Name (Print/Type)	Irvin M. Aisenberg	Registration No.	19,007

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

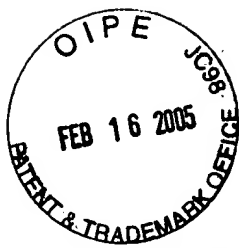
Signature

Name (Print/Type)

Date

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



PATENT
Atty. Dkt. No. P66333US0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Rango DIETRICH et al.

Application No. 09/762,302

Filed: February 8, 2001

Group Art Unit: 1615

Examiner: Humera N. SHEIKH

For: ORAL ADMINISTRATION FORM FOR PYRIDIN-2-YLMETHYLSULFINYL-1H-BENZIMIDAZOLES

PRELIMINARY REMARKS UNDER RULE 1.114

MAIL STOP RCE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In order to address the position set forth in the Advisory Action of December 7, 2004, Applicants provide the following remarks under Rule 1.114.

The administration form according to the invention having a coating, which is customary *per se* for sustained-release compositions is, on one hand, designed so that the benzimidazole [as in the enteric coated form] will be released only after gastric passage. On the other hand it is possible to adjust release for the benzimidazole from this form at a later point in time, e.g., as compared with the enteric form. Advantages of such administration form are referred to starting on page 7, fourth paragraph, of the instant application:

With the aid of the oral administration form according to the invention, it is thus possible to simulate an administration of active compound at a later time. As a result, the possibility is opened up of allowing a once daily administration instead of a twice daily administration of the active compound. . . .

Independently of whether a fixed or free combination is present, the compliance in the case of the combination according to the invention is in any case considerably greater than when two conventional administration forms have to be taken in a relatively large space of time (for example in the space of 3 to 12 hours).